IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2763 of 2000
WITH
SPECIAL CIVIL APPLICATION No 8323 of 1999
WITH
SPECIAL CIVIL APPLICATION No 2981 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PARMAR HARSHKUMAR NARANBHAI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 2763 of 2000
MR YS MANKAD for Petitioners
MR VB GHARANIA, AGP. for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 4

2. Special Civil ApplicationNo 8323 of 1999
MR YS MANKAD for Petitioners
MR VB GHARANIA, AGP. for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 4

3. Special Civil Application No.2981 of 2000
MR CH VORA for petitioner.

MR VB GHARANIA,AGP. for respondents.

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 17/07/2000

COMMON JUDGEMENT

Rule.

Mr.V.B.Gharania and Mr.C.H.Vora waive service of rule for respective parties. By consent of the parties the petitions are taken up for immediate hearing.

In these three petitions two orders dated 28.05.1997 passed by the Collector, Kachchh under section 258 of the Gujarat Municipalities Act, setting aside the resolution passed by the Borough Nagar Palika are under challenge. The Nagar Palika had preferred an appeal before the Director of Municipalities but the same was dismissed. Hence, the Nagar Palika has filed the Special Civil Application No.2981 of 2000. The other persons who were beneficiaries under the resolution of the municipality have filed Special Civil Application Nos. 2763 of 2000 and 8323 of 1999. Shri Y.S.Mankad, learned Counsel for the petitioner in Special Civil Application Nos.2763 of 2000 and 8323 of 1999 produces a copy of the order passed by the Deputy Secretary, Urban Development Department dated 10.03.2000. The said order shows that two of the affected persons had filed the Revision Application Nos.75 of 1998 and 76 of 1998 respectively before the Government challenging one of the impugned orders of the Collector and the Government in exercise of revisional powers under section 264 of the Municipalities Act set aside the order of the Collector in respect of those two persons on the ground that the petitioners in the said revision applications had not been heard by the Collector and the matter was ordered to be remanded. In the present petitions also, it is contended on behalf of the municipality and the other petitioners that the Collector had passed the order without hearing them and the said averment is not controverted.

In the circumstances, these three petitions are allowed. The impugned orders of the Collector are set aside with a liberty to the Collector to pass a fresh order after giving reasonable opportunity of hearing to the petitioners in these petitions.

Rule made absolute accordingly.

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m.m.bhatt